

ORDINANCE NO. 08-52

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 38 ENTITLED "FIRE PREVENTION AND PROTECTION" OF THE CODE OF ORDINANCES AND IN PARTICULAR, ADDING A NEW ARTICLE, ARTICLE VIII ENTITLED "FIRE RESCUE ASSESSMENT" RELATING TO THE PROVISION OF FIRE RESCUE SERVICES, FACILITIES, AND PROGRAMS THROUGHOUT THE GEOGRAPHIC LIMITS OF THE CITY OF HIALEAH, FLORIDA; TO AUTHORIZE THE IMPOSITION AND COLLECTION OF FIRE RESCUE ASSESSMENTS AGAINST PROPERTY; PROVIDE CERTAIN DEFINITIONS INCLUDING A DEFINITION FOR THE TERM "FIRE RESCUE ASSESSMENT"; ESTABLISH A PROCEDURE FOR IMPOSING FIRE RESCUE ASSESSMENTS; PROVIDE THAT FIRE RESCUE ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF ASSESSMENT ROLL; PROVIDE THAT THE LIEN FOR A FIRE RESCUE ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, UPON PERFECTION SHALL ATTACH TO THE PROPERTY ON THE PRIOR JANUARY 1, THE LIEN DATE FOR AD VALOREM TAXES; PROVIDE THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT, OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES, AND CLAIMS; AUTHORIZE THE IMPOSITION OF INTERIM ASSESSMENTS; PROVIDE A PROCEDURE FOR THE COLLECTION OF FIRE RESCUE ASSESSMENTS; AND PROVIDE A MECHANISM FOR THE IMPOSITION OF ASSESSMENTS ON

GOVERNMENT PROPERTY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the general purpose and intent of this ordinance is to provide (1) provide procedures and standards for imposition of citywide fire rescue assessments under the home rule powers of a municipality; (2) authorize a procedure for funding of fire rescue services, facilities or programs providing special benefits to property within the city; and (3) legislatively determine the special benefit provided to assessed property from the provision of the city's fire rescue services; and

WHEREAS, the City ascertained, determined and declared that pursuant to Article VIII, sections 166.021 and 166.041, Florida Statutes, the City Council has all powers of local self-government to perform municipal functions and to render municipal services in a manner not inconsistent with law, and such power may be exercised by the enactment of municipal ordinances; and

WHEREAS, the City may exercise any governmental, corporate or proprietary power for a municipal purpose except when expressly prohibited by law, and the City Council may legislate on any subject matter on which the Florida Legislature may act, except those subjects described in paragraphs (a), (b), (c) and (d) of section 166.021(3), Florida Statutes. The subject matter of paragraphs (a), (b), (c) and (d) of section 166.021(3), Florida Statutes, are not relevant to the imposition of assessments related to fire rescue services, facilities and programs of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 38 entitled "Fire Prevention and Protection" of the Code of Ordinances of the City of Hialeah, Florida is hereby amended to read, by adding a new article, Article VIII entitled "Fire Rescue Assessment", as follows:

Chapter 38

FIRE PREVENTION AND PROTECTION

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ARTICLE VIII. FIRE RESCUE ASSESSMENT*

Sec. 32-200. Purpose.

The purpose and intent of this article is to provide procedures and standards for the imposition of fire rescue assessments within the geographic boundaries of the city under the general home rule powers of a municipality to impose special assessments; to authorize a procedure for the funding of fire rescue services, facilities or programs providing special benefits to property within the city; and to legislatively determine the special benefit provided to assessed property from the provision of city's fire rescue services. The annual fire rescue assessments to be imposed using the procedures provided herein shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act. It is intended that the city enacts the procedures for the fire rescue assessments provided herein and accordingly, the duties of the property appraiser and tax collector as provided herein and pursuant to the Uniform Assessment Collection Act are ministerial.

Sec. 38-201. Determination of special benefit.

It is hereby ascertained and declared that the fire rescue services, facilities and programs provide a special benefit to property because the fire rescue services possess a logical relationship to the use and enjoyment of improved property as follows:

- (a) Protecting the value and integrity of the improvements and structures through the provision of available fire rescue services;
- (b) Protecting the life and safety of intended occupants in the use and enjoyment of property;
- (c) Lowering the cost of fire insurance by the presence of a professional and comprehensive fire rescue program within the city; and
- (d) Containing the spread of fire incidents occurring on vacant property with the potential to spread and endanger the structures and occupants of improved property.

Sec. 38-202. Applicability.

The authority to impose assessments pursuant hereto shall be applicable throughout the city.

Sec. 38-203. Alternative Method.

This article shall be deemed to provide an additional and alternative method for acts authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or that may hereafter come into existence. This article, being necessary for the welfare of the inhabitants of the city, shall be liberally construed to effect the purposes thereof.

Sec. 38-204. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Annual rate ordinance means the ordinance described in section 38-227 establishing the rate at which a fire rescue assessment for a specific fiscal year will be computed. The final assessment ordinance shall constitute the annual rate ordinance for the initial fiscal year in which a fire rescue assessment is imposed or re-imposed.

Assessed property means all parcels of land included on the assessment roll that receive a special benefit from the delivery of the fire rescue services, programs or facilities identified in the initial assessment resolution or a subsequent preliminary rate ordinance.

Assessment roll means the special assessment roll relating to a fire rescue assessment approved by a final assessment ordinance pursuant to section 38-225 or an annual rate ordinance pursuant to section 38-227 hereof.

Building means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind, including mobile homes. This term shall include the use of land in which lot or spaces are offered for use, rent or lease for the placement of mobile homes, travel trailers or the similar structures used for residential purposes.

Certificate of occupancy means the written certification issued by the city that a building is ready for occupancy for its intended use. For the purposes of this article, a set up or tie down permit or its equivalent issued for a mobile home shall be considered a certificate of occupancy.

Final assessment ordinance means the ordinance described in section 38-225 that confirms, modifies or repeals the initial assessment resolution and that constitutes the final proceeding for the initial imposition of fire rescue assessments.

Fire rescue assessment means a special assessment lawfully imposed by the city against assessed property to fund all or any portion of the cost of the provision of fire rescue services, facilities or programs providing a special benefit to property as a consequence of possessing a logical relationship to the value, use or characteristics of the assessed property.

Fire rescue assessed cost means the amount determined by the city to be assessed in any fiscal year to fund all or any portion of the cost of the provision of fire rescue services, facilities or programs that provide a special benefit to assessed property, and shall include, but not be limited to, the following components: (a) the cost of physical construction, reconstruction or completion of any required facility or improvement; (b) the costs incurred in any required acquisition or purchase; (c) the cost of all labor, materials, machinery and equipment; (d) the cost of fuel, parts, supplies, maintenance, repairs and utilities; (e) the cost of computer services, data processing and communications; (f) the cost of all lands and interest therein, leases, property rights, easements and franchises of any nature whatsoever; (g) the cost of any indemnity or surety bonds and premiums for insurance; (h) the cost of salaries, volunteer pay, workers' compensation insurance or other employment benefits; (i) the cost of uniforms, training, travel and per diem; (j) the cost of construction plans and specifications, surveys and estimates of costs; (k) the cost of engineering, financial, legal and other professional services; (l) the costs of compliance with any contracts or agreements entered into by the city to provide fire rescue services; (m) all costs associated with the structure, implementation, collection and enforcement of the fire rescue assessments, including any service charges of the tax collector, or property appraiser and amounts necessary to off-set discounts received for early payment of fire rescue assessments pursuant to the Uniform Assessment Collection Act or for early payment of fire rescue assessments collected pursuant to section 38-241 herein; (n) all other costs and expenses necessary or incidental to the acquisition, provision or construction of fire rescue services, facilities or programs, and such other expenses as may be necessary or incidental to any related financing authorized by the city; (o) a reasonable amount for contingency and anticipated delinquencies and uncollectible fire rescue assessments; and (p) reimbursement to the city or any other person for any funds advanced for any costs incurred by the city or such person in connection with any of the foregoing components of fire rescue assessed cost. If the city also imposes an impact fee upon new growth or development for fire rescue related capital improvements, the

fire rescue assessed cost shall not include costs attributable to capital improvements necessitated by new growth or development that will be paid by such impact fees. The fire rescue assessed cost shall also not include costs for the provision of emergency medical services by the city.

Fiscal Year means that period commencing October 1st of each year and continuing through the next succeeding September 30th, or such other period as may be prescribed by law as the fiscal year for the city.

Government property means property owned by the federal government or any agency thereof, a sovereign state or nation, the state or any agency thereof, the county, a special district or a municipal corporation.

Initial assessment resolution means the resolution described in section 38-221 hereof, which shall be the initial proceeding for the identification of the fire rescue assessed cost for which an assessment is to be made and for the imposition of a fire rescue assessment.

Maximum assessment rate means the highest rate of a fire rescue assessment established by the city in an initial assessment resolution or preliminary rate resolution and confirmed by the city in the final assessment ordinance or annual rate ordinance.

Owner means the person reflected as the owner of assessed property on the tax roll.

Person means any individual, partnership, firm, organization, corporation, association, or any other legal entity, whether singular or plural, masculine or feminine, as the context may require.

Preliminary rate resolution means the resolution described in section 38-227 initiating the annual process for updating the assessment roll and directing the re-imposition of fire rescue assessments pursuant to an annual rate ordinance.

Property appraiser means the county property appraiser.

Tax collector means the county tax collector.

Tax roll means the real property ad valorem tax assessment roll maintained by the property appraiser for the purpose of the levy and collection of ad valorem taxes.

Uniform Assessment Collection Act means sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the

collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

DIVISION 1. ANNUAL FIRE RESCUE ASSESSMENTS

Sec. 38-220. General authority.

(a) The city is hereby authorized to impose an annual fire rescue assessment to fund all or any portion of the fire rescue assessed cost upon benefited property at a rate of assessment based on the special benefit accruing to such property from the city's provision of fire rescue services, facilities or programs. All fire rescue assessments shall be imposed in conformity with the procedures set forth in this division.

(b) The amount of the fire rescue assessment imposed in a fiscal year against a parcel of assessed property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the fire rescue assessed cost among properties on a basis reasonably related to the special benefit provided by fire rescue services, facilities, or programs funded with assessment proceeds.

(c) Nothing contained in this article shall be construed to require the imposition of fire rescue assessments against government property.

Sec. 38-221. Initial proceedings.

The initial proceeding for the imposition of a fire rescue assessment shall be the adoption of an initial assessment resolution by the city, (a) containing a brief and general description of the fire rescue services, facilities or programs to be provided, (b) determining the fire rescue assessed cost to be assessed, (3) describing the method of apportioning the fire rescue assessed cost and the computation of the fire rescue assessment for specific properties, (4) establishing an estimated assessment rate for the applicable fiscal year, (5) establishing a maximum assessment rate, if desired by the city, and (6) directing the mayor to prepare the initial assessment roll, publish the required notice, and (c) mail the notice using information then available from the tax roll.

Sec. 38-222. Initial assessment roll.

(a) The mayor shall prepare, or direct the preparation of, the initial assessment roll, which shall contain the following:

(1) A summary description of all assessed property conforming to the description contained on the tax roll.

(2) The name of the owner of the assessed property.

(3) The amount of the fire rescue assessment to be imposed against each such parcel of assessed property.

(b) The city clerk shall retain the initial assessment roll, which shall be open to public inspection. The foregoing shall not be construed to require that the assessment roll be in printed form if the amount of the fire rescue assessment for each parcel of property can be determined by use of a computer terminal available to the public.

Sec. 38-223. Notice by publication.

(a) Upon completion of the initial assessment roll, the city clerk shall publish, or direct the publication of, once in a newspaper of general circulation within the city a notice stating that at a meeting of the city council on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned, or special meeting, the city council will hear objections of all interested persons to the final assessment ordinance that shall establish the rate of assessment and approve the initial assessment roll.

(b) The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act and section 166.041, Florida Statutes. Such notice shall include (1) title of the final assessment ordinance or annual rate ordinance, as applicable; (2) a geographic depiction of the property subject to the fire rescue assessment; (3) a brief and general description of the fire rescue services, facilities or programs to be provided; (4) the rate of assessment including a maximum assessment rate if such rate is adopted; (5) the procedure for objecting as provided in section 38-225 hereof; (6) the method by which the fire rescue assessment will be collected; and (7) a statement that the initial assessment roll and the final assessment ordinance or annual rate ordinance, as applicable, is available for inspection at the city clerk's office and all interested persons may ascertain the amount to be assessed against a parcel of assessed property at the city clerk's office or fire department; and (8) the date, time and place of the public hearing.

Sec. 38-224. Notice by mail.

(a) In addition to the published notice required by section 38-223, the city shall provide notice, or direct the provision of notice, of the proposed

fire rescue assessment by first class mail to the owner of each parcel of property subject to the fire rescue assessment.

(b) Such notice shall include (1) the purpose of the fire rescue assessment; (2) the rate of assessment to be levied against each parcel of property, including a maximum assessment rate if such rate is adopted; (3) the unit of measurement applied to determine the fire rescue assessment; (4) the number of such units contained in each parcel of property; (5) the total revenue to be collected by the city from the fire rescue assessment; (6) a statement that failure to pay the fire rescue assessment will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property; (7) a statement that all affected owners have a right to appear at the hearing and to file written objections with the city clerk within 20 days of the notice; and (8) the date, time, and place of the hearing.

(c) The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each owner at such address as is shown on the tax roll. Notice shall be deemed mailed upon delivery thereof to the possession of the United States postal service. The city may provide proof of such notice by affidavit. Failure of the owner to receive such notice due to mistake or inadvertence shall neither affect the validity of the assessment roll nor release or discharge any obligation for payment of a fire rescue assessment imposed by the city pursuant to this article.

Sec. 38-225. Adoption of final assessment ordinance.

(a) At the public hearing as noticed pursuant to sections 38-223 and 38-224 hereof or to which an adjournment or continuance may be taken by the city council, the city shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the city council adopt the final assessment ordinance, which shall (1) confirm, modify, or repeal the initial assessment resolution with such amendments, if any, as may be deemed appropriate by the city; (2) establish the rate of assessment to be imposed in the upcoming fiscal year; (3) establish a maximum assessment rate that may be imposed if such rate is adopted; (4) approve the initial assessment roll, with such amendments as it deems just and right; and (5) determine the method of collection.

(b) The adoption of the final assessment ordinance shall constitute a legislative determination that all parcels assessed derive a special benefit from the fire rescue services, facilities, or programs to be provided or constructed and a legislative determination that the fire rescue assessments

are fairly and reasonably apportioned among the properties that receive the special benefit.

(c) All written objections to the final assessment ordinance shall be filed with the city clerk at or before the time or adjourned time of such hearing. The final assessment ordinance shall constitute the annual rate ordinance for the initial fiscal year in which fire rescue assessments are imposed or re-imposed hereunder.

(d) The final assessment ordinance shall be adopted according to the procedures provided in section 166.041, Florida Statutes.

Sec. 38-226. Effect of the final assessment ordinance.

The fire rescue assessments for the initial fiscal year shall be established upon adoption of the final assessment ordinance. The adoption of the final assessment ordinance shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the assessed property; the method of apportionment and assessment; the initial rate of assessment; the maximum assessment rate, if any; the initial assessment roll; and the levy and lien of the fire rescue assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the effective date of the final assessment ordinance. The initial assessment roll, as approved by the final assessment ordinance, shall be delivered to the tax collector, as required by the Uniform Assessment Collection Act, or if the alternative method described in section 38-241 hereof is used to collect the fire rescue assessments, such other official as the city by resolution shall designate.

Sec. 38-227. Adoption of annual rate ordinance.

(a) The city shall adopt an annual rate ordinance during its budget adoption process for each fiscal year following the initial fiscal year for which a fire rescue assessment is imposed hereunder. This ordinance shall be adopted according to the procedures provided in section 166.041, Florida Statutes.

(b) The initial proceedings for the adoption of an annual rate ordinance shall be the adoption of a preliminary rate resolution, (1) containing a brief and general description of the fire rescue services, facilities or programs to be provided; (2) determining the fire rescue assessed cost to be assessed for the upcoming fiscal year; (3) establishing the estimated assessment rate for the upcoming fiscal year; (4) establishing or increasing a maximum assessment rate, if desired by the city; (5) authorizing the date, time, and place of a public hearing to receive and consider comments from the

public and consider the adoption of the annual rate ordinance for the upcoming fiscal year; and (6) directing the mayor or city clerk to (a) update the assessment roll, (b) provide notice by publication and first class mail to affected owners in the event circumstances described in subsection (f) of this Section so require, and (c) directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the city.

(c) The annual rate ordinance shall (1) establish the rate of assessment to be imposed in the upcoming fiscal year and (2) approve the assessment roll for the upcoming fiscal year with such adjustments as the city deems just and right. The assessment roll shall be prepared according to the method of apportionment set forth in the initial assessment resolution, or any subsequent preliminary rate resolution, together with modifications, if any, that are provided and confirmed in the final assessment ordinance or any subsequent annual rate ordinance.

(d) Nothing herein shall preclude the city from providing annual notification to all owners of Assessed Property in the manner provided in sections 38-223 and 38-224 hereof or any other method as provided by law.

(e) The city may establish or increase a maximum assessment rate in an initial assessment resolution or preliminary rate resolution and confirm such maximum assessment rate by ordinance if notice of such maximum rate assessment has been included in the notices required by sections 38-223 and 38-224 hereof.

(f) If (1) the proposed fire rescue assessment for any fiscal year exceeds the rates of assessment adopted by the city including a maximum assessment rate, if any, that were listed in the notices previously provided to the owners of assessed property pursuant to sections 38-223 and 38-224 hereof, (2) the purpose for which the fire rescue assessment is imposed or the use of the revenue from the fire rescue assessment is substantially changed from that represented by notice previously provided to the owners of assessed property pursuant to sections 38-223 and 38-224 hereof, (3) assessed property is reclassified or the method of apportionment is revised or altered resulting in an increased fire rescue assessment from that represented by notice previously provided to the owners of assessed property pursuant to sections 38-223 and 38-224 hereof, or (4) an assessment roll contains assessed property that was not included on the assessment roll approved for the prior fiscal year, notice shall be provided by publication and first class mail to the owners of such assessed property as provided by law. Such notice shall substantially conform to the notice requirements set forth in sections 38-223 and 38-224 hereof and inform

the owner of the date, time, and place for the adoption of the annual rate ordinance. The failure of the owner to receive such notice due to mistake or inadvertence shall neither affect the validity of the assessment roll nor release or discharge any obligation for payment of a fire rescue assessment imposed by the city pursuant to this article.

(g) As to any assessed property not included on an assessment roll approved by the adoption of the final assessment ordinance or a prior year's annual rate ordinance, the adoption of the succeeding annual rate ordinance shall be the final adjudication of the issues presented as to such assessed property (including, but not limited to, the determination of special benefit and fair apportionment to the assessed property, the method of apportionment and assessment, the rate of assessment, the establishment or increase of a maximum assessment rate, the assessment roll, and the levy and lien of the fire rescue assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the effective date of the annual rate ordinance. Nothing contained herein shall be construed or interpreted to affect the finality of any fire rescue assessment not challenged within the required 20-day period for those fire rescue assessments previously imposed against assessed property by the inclusion of the assessed property on an assessment roll approved in the final assessment ordinance or any subsequent annual rate ordinance.

(h) The assessment roll, as approved by the annual rate ordinance, shall be delivered to the tax collector as required by the Uniform Assessment Collection Act, or if the alternative method described in section 38-241 hereof is used to collect the fire rescue assessments, such other official as the city council by resolution shall designate. If the fire rescue assessment against any property shall be sustained, reduced or abated by the court, an adjustment shall be made on the assessment roll.

Sec. 38-228. Lien of fire rescue assessments.

Upon the adoption of the assessment roll, all fire rescue assessments shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles and claims, until paid. The lien for a fire rescue assessment shall be deemed perfected upon the city's adoption of the final assessment ordinance or the annual rate ordinance, whichever is applicable. The lien for a fire rescue assessment collected under the Uniform Assessment Collection Act shall attach to the property included on the assessment roll as of the prior January 1, the lien date for ad valorem taxes imposed under the tax roll.

The lien for a fire rescue assessment collected under the alternative method of collection provided in section 38-241 shall be deemed perfected upon the city's adoption of the final assessment ordinance or the annual rate ordinance, whichever is applicable, and shall attach to the property on such date of adoption.

Sec. 38-229. Revisions to fire rescue assessments.

If any fire rescue assessment made under the provisions of this article is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the city is satisfied that any such fire rescue assessment is so irregular or defective that the same cannot be enforced or collected, or if the city has failed to include or omitted any property on the assessment roll, which property should have been so included, the city may take all necessary steps to impose a new fire rescue assessment against any property benefited by the fire rescue assessed costs, following as nearly as may be practicable, the provisions of this article and in case such second fire rescue assessment is annulled, vacated, or set aside, the city may obtain and impose other fire rescue assessments until a valid fire rescue assessment is imposed.

Sec. 38-230. Procedural irregularities.

Any informality or irregularity in the proceedings in connection with the levy of any fire rescue assessment under the provisions of this article shall not affect the validity of the same after the approval thereof, and any fire rescue assessment as finally approved shall be competent and sufficient evidence that such fire rescue assessment was duly levied, that the fire rescue assessment was duly made and adopted, and that all other proceedings adequate to such fire rescue assessment were duly had, taken, and performed as required by this article; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.

Sec. 38-231. Correction of errors and omissions.

(a) No act of error or omission on the part of the property appraiser, tax collector, mayor, city council, or their deputies or employees, shall operate to release or discharge any obligation for payment of a fire rescue assessment imposed by the city.

(b) When it shall appear that any fire rescue assessment should have been imposed pursuant to this article against a parcel of property specially benefited by the provision of fire rescue services, facilities, or programs, but that such property was omitted from the assessment roll; or such

property was erroneously assessed; or was not listed on the tax roll as an individual parcel of property as of the effective date of the assessment roll approved by the annual rate ordinance for any upcoming fiscal year, the city may, upon provision of a notice by mail provided to the owner of the omitted or erroneously assessed parcel in the manner and form provided in section 38-224, impose the applicable fire rescue assessment for the fiscal year in which such error or omission is discovered, in addition to the applicable fire rescue assessment due for the prior two fiscal years. Such fire rescue assessment shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles, and claims in and to or against the real property involved, shall be collected as provided in division 2 hereof, and shall be deemed perfected on the date of adoption of the ordinance imposing the omitted or delinquent assessments.

(c) Prior to the delivery of the assessment roll to the tax collector according to the Uniform Assessment Collection Act, the mayor shall have the authority at any time, upon the mayor's own initiative or in response to a timely filed petition from the owner of any property subject to a fire rescue assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the fire rescue assessment apportionment method to any particular parcel of property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the fire rescue assessment imposed under the provisions of this article. All requests from affected property owners for any such changes, modifications or corrections shall be referred to, and processed by, the mayor and not the property appraiser or tax collector.

(d) After the assessment roll has been delivered to the tax collector according to the Uniform Assessment Collection Act, any changes, modifications, or corrections thereto shall be made in accordance with the procedures applicable to correcting errors and insolvencies on the tax roll upon timely written request and direction of the mayor.

Sec. 38-232. Interim assessments.

(a) An interim fire rescue assessment may be imposed against all property for which a certificate of occupancy is issued after the adoption of the annual rate ordinance. The amount of the interim fire rescue assessment shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such property computed according to the annual rate ordinance for the fiscal year for which the interim fire rescue

assessment is being imposed. Such monthly rate shall be imposed for each full calendar month remaining in the fiscal year. In addition to the monthly rate, the interim fire rescue assessment may also include an estimate of the subsequent fiscal year's fire rescue assessment.

(b) Issuance of the certificate of occupancy without the payment in full of the interim fire rescue assessment shall not relieve the owner of such property of the obligation of full payment. Any interim fire rescue assessment not collected prior to the issuance of the certificate of occupancy may be collected pursuant to the Uniform Assessment Collection Act as provided in section 38-240 hereof, under the alternative collection method provided in section 38-241 or by any other method authorized by law.

(c) Any interim fire rescue assessment shall be deemed due and payable on the date the certificate of occupancy was issued and shall constitute a lien against such property as of that date. Such lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the certificate of occupancy.

DIVISION 2. COLLECTION AND USE OF FIRE RESCUE ASSESSMENTS

Sec. 38-240. Method of collection.

(a) Unless otherwise directed by the city, the fire rescue assessments shall be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act, and the city shall comply with all applicable provisions of the Uniform Assessment Collection Act. Any hearing or notice required by this article may be combined with any other hearing or notice required by the Uniform Assessment Collection Act or other provision of law.

(b) The amount of a fire rescue assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific parcel of benefited property may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for a prior year's assessment for a comparable service, facility or program provided, (1) the collection method used in connection with the prior year's assessment did not employ the use of the uniform method of collection authorized by the Uniform Assessment Collection Act, (2) notice is provided to the Owner as required under the Uniform Assessment

Collection Act, and (3) any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such fire rescue assessment upon certification of a non-ad valorem roll to the tax collector by the city.

Sec. 38-241. Alternative method of collection.

In lieu of using the Uniform Assessment Collection Act, the city may elect to collect the fire rescue assessments by any other method that is authorized by law or under the alternative collection method provided by this section:

(a) The city shall provide fire rescue assessment bills by first class mail to the owner of each affected parcel of property that is subject to the fire rescue assessment. The bill or accompanying explanatory material shall include (1) a brief explanation of the fire rescue assessment, (2) a description of the unit of measurement used to determine the amount of the fire rescue assessment, (3) the number of units contained within the parcel, (4) the total amount of the fire rescue assessment imposed against the parcel for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the fire rescue assessment is due, and (7) a statement that the fire rescue assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

(b) A general notice of the lien resulting from imposition of the fire rescue assessments shall be on file with the city clerk. Nothing herein shall be construed to require that individual liens or releases be filed with the city clerk.

(c) The city shall have the right to foreclose and collect all delinquent fire rescue assessments in the manner provided by law for the foreclosure of mortgages on real property or appoint or retain an agent to institute such foreclosure and collection proceedings. A fire rescue assessment shall become delinquent if it is not paid within 30 days from the date payment was due, as identified in accordance with paragraph (a)(6) of this section. The city or its agent shall notify any property owner who is delinquent in payment of the property owner's fire rescue assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the city or its agent will either (1) initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent fire rescue assessment in a method now or hereafter provided by law for foreclosure of mortgages on real property, or (2) cause an amount equivalent to the delinquent fire rescue assessment, not previously subject to collection using the uniform method under the

Uniform Assessment Collection Act, to be collected on the tax bill for a subsequent year.

(d) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the city may be the purchaser to the same extent as any person. The city or its agent may join in one foreclosure action the collection of fire rescue assessments against any or all assessed property. All delinquent owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the city and its agents, including reasonable attorney fees, in collection of such delinquent fire rescue assessments and any other costs incurred by the city as a result of such delinquent fire rescue assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(e) In lieu of foreclosure, any delinquent fire rescue assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided, however, that (1) notice is provided to the owner in the manner required by the Uniform Assessment Collection Act and this article, and (2) any existing lien of record on the affected parcel for the delinquent fire rescue assessment is supplanted by the lien resulting from certification of the assessment roll, as applicable, to the tax collector.

(f) Notwithstanding the city council's use of an alternative method of collection, the mayor shall have the same power and authority to correct errors and omissions as provided to the mayor or other city officials in section 38-231 hereof.

(g) Any city council action required in the collection of fire rescue assessments may be by resolution.

Sec. 38-242. Government property.

(a) If fire rescue assessments are imposed against government property, the city shall provide fire rescue assessment bills by first class mail to the owner of each affected parcel of government property. The bill or accompanying explanatory material shall include (1) a brief explanation of the fire rescue assessment, (2) a description of the unit of measurement used to determine the amount of the fire rescue assessment, (3) the number of units contained within the parcel, (4) the total amount of the parcel's fire rescue assessment for the appropriate period, (5) the location at which

payment will be accepted, and (6) the date on which the Fire rescue assessment is due.

(b) Fire rescue assessments imposed against government property shall be due on the same date as all other fire rescue assessments and, if applicable, shall be subject to the same discounts for early payment.

(c) A fire rescue assessment shall become delinquent if it is not paid within 30 days from the date payment was due, as identified in paragraph (a)(6) of this section. The city shall notify the owner of any government property that is delinquent in payment of its fire rescue assessment within 60 days from the date such assessment was due. Such notice shall state that the city will initiate a mandamus or other appropriate judicial action to compel payment.

(d) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent owners of government property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the city, including reasonable attorney fees, in collection of such delinquent fire rescue assessments and any other costs incurred by the city as a result of such delinquent fire rescue assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(e) As an alternative to the foregoing, a fire rescue assessment imposed against government property may be collected as a surcharge on a utility bill provided to such government property in periodic installments with a remedy of a mandamus action in the event of non-payment. The city may contract for such billing services with any utility, whether or not such utility is owned by the city.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections

of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

Section 4: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 10th day of June, 2008.

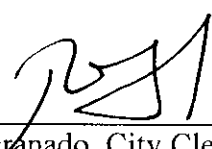
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



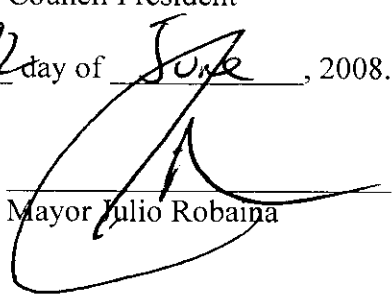
Esteban Bovo
Council President

Attest:

Approved on this 12 day of June, 2008.



Rafael E. Granado, City Clerk



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

* Since an entirely new article is being adopted, the City will not indicate the new provisions of the article by underlining.

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Ordinance was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".